Supreme Court, U.S.
FILED
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92

No. (D)

In The
Supreme Court of the United States

U. LAWRENCE BOZÉ,
Petitioner,

v.

GUARDIAN AD LITEM, also known as Kim Ballew,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

JOSEPH R. WILLIE, II, D.D.S., J.D.
Counsel of Record
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Attorney for Petitioner

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QUESTION PRESENTED

After the merits of the case have been settled, does an order disgorging attorney's fees fall within the "collateral order" exception to the final judgment rule when the order is effectively unreviewable from a final judgment.

LIST OF PARTIES

Petitioner certifies that the following is a complete list of names of all parties.

PETITIONER:

U. Lawrence Bozé

RESPONDENT:

Kim Ballew, Guardian Ad Litem

ATTORNEYS:

Joseph R. Willie, II, D.D.S., J.D.
4151 Southwest Freeway
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U. Lawrence Bozé

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Kim Ballew,
Guardian Ad Litem

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PRAYER

TO THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioner herein prays that a Writ of Certiorari issue to the United States Court of Appeals for the Fifth Circuit to review that court's December 12, 2007 Judgment and Opinion in this proceeding.

OPINIONS/ORDERS BELOW

The Opinion of the United States Court of Appeals for the Fifth Circuit entered on December 12, 2007, and from which review is sought is unreported but can be found at 2007 WL 4375450, is attached as Appendix "A."

The Order of the United States District Court for the Southern District of Texas entered on February 24, 2006, from which the Petitioner appealed, is attached as Exhibit "B."

The Opinion of the United States Court of Appeals for the Fifth Circuit entered on February 10, 2004, which dismissed the original appeal for lack of jurisdiction, is unreported but can be found at 86 Fed.Appx. 743, is attached as Exhibit "C."

The Order, Courtroom Minutes and Amending Order of the United States District Court for the Southern District of Texas entered on January 29, 2003 and February 6, 2003, which order disgorgement

of attorney's fees, are attached as Exhibits "D," "E," and "F."

JURISDICTION

The Opinion of the United States Court of Appeals for the Fifth Circuit was entered on December 12, 2007. This Petition for Writ of Certiorari is within 90 days of that date. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES INVOLVED

This case arises under the Fifth Amendment to the United States Constitution and 28 U.S.C. § 1291. The constitutional provision and statute are reprinted in the Appendix as Appendices "G" and "H."

STATEMENT OF THE CASE

This case involved the disgorgement of $1,147,940.06 in attorney's fees by the district court after the settlement of a personal injury case.

Petitioner's case was filed in the Harris County, Texas State District Court on August 31, 1995, bearing Cause No. 95-043443. On April 8, 1996, this case was removed by the Honorable Lynn N. Hughes, Judge of the United States District Court for the Southern District of Texas, Houston Division, bearing Civil Action No. 96-1125.

On May 24, 1996, the district court consolidated 96-1125 and 96-1126 and assigned a new number bearing

96-1666. Subsequently a number of other cases were removed and consolidated into 96-1666. These cases were as follows: 96-1716, consolidated on September 24, 1996; 96-2476, consolidated on September 24, 1996; 96-3271, consolidated on October 7, 1996; 96-3948, consolidated on December 4, 1996; 96-4212, consolidated on February 19, 1997; 97-2893, consolidated on September 17, 1997; 97-2894, consolidated on September 17, 1997; and 97-2295, consolidated on December 4, 1997.

On February 22, 2002, the district court entered an oral order closing the case statistically based upon the settlement agreement of the parties, thus adjudicating the merits of the case. As of this date, all that remains is the final dispersement of the settlement funds belonging to the Minor Plaintiffs. A final judgment in this case cannot be entered until dispersement is completed.

On January 29, 2003 and on February 6, 2003, the district court entered orders disgorging over 1.14 million dollars of Petitioner's attorney's fees and costs on the Minor Plaintiffs' claims. (Dkt. Nos. 972 and 985.) On January 29, 2003, the district entered an order disbursing the Petitioner's disgorged fees and costs to pay back, with interest, all monies paid the Guardian Ad Litem by the settling Defendants and other Plaintiff groups with the remainder to go to all minors. (Dkt. No. 975.) On February 6, 2003, the district court entered an order denying Petitioner's request for reconsideration and rehearing. (Dkt. No. 983.) On March 7, 2003, Petitioner filed his Notice of Appeal. (Dkt. Nos. 988; 988-1; 989; 989-1.)

The United States Court of Appeals for the Fifth Circuit consolidated the appeals in Cause Nos. 03-2033 and 03-20334. On February 10, 2004, the Fifth Circuit decided that the orders complained of above were interlocutory in nature and dismissed the appeal for want of jurisdiction. (Exhibit "C.")

On February 13, 2006, the Petitioner filed his Motion to Sever Orders for Attorney's Fees Disgorgement with the district court. (Dkt. No. 1080.) On February 24, 2006, the district court denied the motion to sever. (Dkt. No. 1082.) On March 29, 2006, the Petitioner timely filed his Notice of Appeal. (Dkt. No. 1088.)

On December 12, 2007, a panel of the Fifth Circuit consisting of Weiner, Garza and Benavides, Circuit Judges, filed its opinion and dismissed the appeal for want of jurisdiction and issued a sanctions warning. This present Petition for Writ of Certiorari followed.

REASON FOR GRANTING THE WRIT

I. The Fifth Circuit has ignored this Court's longstanding precedent that when the issue of attorney's fees is separate and distinct from the merits of the case, appellate review of the attorney's fees issue is obtainable under the "collateral order" exception to the final judgment rule if the issue is effectively unreviewable from a final judgment.

This case has been in appellate and/or district court "orbit" for approximately five years. It must be pointed out that the Petitioner's prior appeal was dismissed for

want for want of jurisdiction. *See Pleasantville Civic League of Houston, Et Al. v. Guardian Ad Litem, a/k/a Kim Ballew, Et Al.*, 86 Fed.Appx. 743 (5th Cir. 2004). The Court is asked to take judicial notice of the Fifth Circuit's opinion.

In response to the above-referenced opinion, the Petitioner sought a severance of the orders disgorging his attorney's fees pursuant to FED. R. CIV. P. 21 so that the orders would be available for appellate review. (Dkt. No. 1080.) The district court denied the motion. (Dkt. No. 1082.) Ordinarily, the granting or denial of a motion for severance would be interlocutory and not a final order available for appellate review. *Cf. Bankers Life & Casualty Co. v. Holland,* 346 U.S. 379, 382-384 (1953); *NAACP of La. v. Michot,* 480 F.2d 547, 548 (5th Cir. 1973). However, the district court made an additional finding on its order as follows:

> The court did not order him to disgorge attorney's fees. He had a contract for services with minors that required court approval. After several hearings, the court concluded [that] Boze had not earned anything by his non-existent work for the minors – work that had to be done a separate expense by a guardian ad litem.

The recitations of this order directly conflict the district court's recitations in its prior orders where disgorgement of attorney's fees was explicitly stated. (Appendices "D" and "F.")

It is the contention of the Petitioner that the holdings by the district court concerning the

disgorgement of attorney's fees converted interlocutory orders into "collateral orders" which are immediately appealable as a final judgment.

This Court has repeatedly held that even if a decision is not "final," it might be appealable if it is a "collateral order." To satisfy this narrow exception to the final judgment rule, an order must at a minimum satisfy three conditions: 1) It must conclusively determine the disputed question; 2) resolve an important issue completely separate from the merits of the action; and 3) be effectively unreviewable on appeal from a final judgment. *See, e.g., Buchanan v. Stanships, Inc.,* 485 U.S. 265, 267-269 (1988); *Richardson-Merrell, Inc. v. Koller,* 472 U.S. 424, 430-431 (1985); *Coopers & Lybrand v. Livesay,* 437 U.S. 463, 467-468 (1978).

It is the petitioner's contention that the orders disgorging attorney's fees and denying severance, based upon the unique facts of this case, meet all the criteria of the "collateral order" exception to the final judgment rule. *Cf. FCC v. League of Women Voters,* 488 U.S. 364, 373-374, n.10 (1984) (issue of entitlement to "attorney's fees *and costs*" described as "wholly collateral" to judgment on the merits) (emphasis added); *Eisen v. Carlisle & Jacquelin,* 417 U.S. 156, 172 (1974) (order assigning costs held immediately appealable under the "collateral order" doctrine because it "involved a collateral matter unrelated to the merits"). If the Petitioner is not allowed to presently appeal the orders disgorging his attorney's fees and denying severance, there quite possibly will be no funds left in the registry of the district court with which to pay the petitioner if and

when a final judgment is entered and if it is subsequently found that the Petitioner is entitled to his attorney's fees.

By totally ignoring this Court's longstanding precedents, the Fifth Circuit's current opinion has violated the doctrine of *stare decisis* and in the process has also violated the Petitioner's Equal Protection and Due Process Rights guaranteed by the Fifth Amendment to the United States Constitution. The Court is respectfully invited correct this miscarriage of justice.

CONCLUSION

For the foregoing reason, Petitioner prays that a Writ of Certiorari issue to review the December 12, 2007 Opinion of the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

WILLIE & ASSOCIATES, P.C.

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(713) 659-7330

Attorney for Petitioner

APPENDIX

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 06-20873
(Summary Calendar)

[Filed December 12, 2007]

GUARDIAN AD LITEM, also known as KIM BALLEW Plaintiff–Appellee	)
v.	)
LOGISTICS PARTNERS INC; ET AL Defendants	)
U LAWRENCE BOZE Appellant	)

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:97-CV-2894

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant U. Lawrence Bozé appeals the district court's denial of his Motion to Sever Orders for Attorney's Fees Disgorgement. Appellant argues that this Court has jurisdiction over this appeal under the collateral order doctrine. Because we find that the collateral order doctrine does not apply, we dismiss Appellant's appeal for want of appellate jurisdiction.

I. BACKGROUND

This case arises out of a series of chemical fires occurring at a chemical warehouse located near Pleasantville, Texas. Thousands of plaintiffs emerged and brought causes of action for various personal injuries and property damage. The underlying case resulted from the consolidation of these claims. Appellant Bozé and the firm of Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando (the "Gary Law Firm")[1] are the attorneys for the Pleasantville Plaintiffs, including 565 minor Plaintiffs. The district court appointed Appellee Kim A. Ballew to serve as Guardian Ad Litem for all minor Plaintiffs.

All Plaintiffs ultimately reached a settlement with the Defendants. The district court, however, has yet to

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* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

[1] The Gary Law Firm is not a party to this appeal.

enter a final judgment approving all issues relating to the settlements of the minor Plaintiffs.

On January 28, 2003, the district court held a hearing regarding, in part, the amounts of attorney's fees and costs that were to be paid from the Pleasantville minor Plaintiffs' settlement proceeds. Despite seeking substantial fees in excess of $1,000,000, the district court entered an order awarding Appellant and the Gary Law Firm a nominal amount of attorney's fees for their representation of the minors. Appellant and the Gary Law Firm appealed this order–along with the denial of their motion for reconsideration and several other orders disbursing funds from the Pleasantville minor Plaintiffs' settlement proceeds–to this Court,[2] which found want of appellate jurisdiction because the orders appealed from were "interlocutory and unappealable rulings." *Pleasantville Civic League of Houston, Tex. v. Guardian Ad Litem*, 86 Fed. Appx. 743 (5th Cir. 2004).

Thereafter, on February 13, 2006, Appellant filed its Motion to Sever Orders for Attorney's Fees Disgorgement with the district court, seeking to make the orders concerning attorney's fees disgorgement final, appealable judgments. On February 24, 2006, the district court denied this motion. Appellant now appeals the denial of its motion, two 2006 orders disbursing funds, and all the 2003 orders that Appellant previously appealed to this Court.

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[2] These orders that were the subject of the first appeal to this Court are referred to collectively as the "2003 orders."

II. DISCUSSION

Appellant concedes that the orders appealed from are not final, but contends that appellate jurisdiction is proper pursuant to the collateral order doctrine, which allows "appeals from orders other than final judgments when they have a final and irreparable effect on the rights of the parties." *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545 (1949). To come within the collateral order exception, an order must satisfy three conditions: (1) it must "conclusively determine the disputed question"; (2) it must "resolve an important issue completely separate from the merits of the action"; and (3) it must "be effectively unreviewable on appeal from a final judgment." *In re Lieb*, 915 F.2d 180, 184 (5th Cir. 1990) (internal quotations omitted). Appealable collateral orders are limited to a "small class which finally determine claims of right separable from, and collateral to, rights asserted in the action, too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated." *Cohen*, 337 U.S. at 546. Only serious and unsettled questions come within the collateral order doctrine. *Baldridge v. SBC Commc'ns, Inc.*, 404 F.3d 930, 931 (5th Cir. 2005).

With respect to the order denying Appellant's motion for severance, this Court has found that "the collateral order doctrine does not apply to an interlocutory order denying severance of claims or separate trials." *Aime v. City of Jennings*, 217 Fed. Appx. 338, 339 (5th Cir. 2007); *see also In re Lieb*, 915 F.2d at 185 (finding that severance orders are analogous to orders under Federal Rule of Civil

Procedure 42(b), which are "interlocutory and non-appealable before final judgment"). Appellant does not adequately explain how denial of a motion for severance constitutes "an important issue" or why it is "effectively unreviewable on appeal from a final judgment."[3] *In re Lieb*, 915 F.2d at 184 (internal quotations omitted).

With respect to the 2003 orders, this Court has already determined that these orders are "interlocutory and unappealable rulings." *Pleasantville Civic League of Houston, Tex. v. Guardian Ad Litem*, 86 Fed. Appx. 743 (5th Cir. 2004). We will not re-examine this determination. *See Fuhrman v. Dretke*, 442 F.3d 893, 896 (5th Cir. 2006) ("The law of the case doctrine provides that an issue of law or fact decided on appeal may not be reexamined . . . by the appellate court on a subsequent appeal.") (internal quotations omitted).

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[3] In its brief, Appellant summarily states that "[i]f the Appellant is not allowed to presently appeal the order denying severance, there quite possibly will be no funds left in the registry of the district court with which to pay the Appellant if and when a final judgment is entered and if it is subsequently found that the Appellant is entitled to his attorney's fees." Such a conclusory statement is insufficient, however, because Appellant must both "allege[] and prove[]" that the fees would be "unrecoverable" if appeal must await a final judgment. *See Shipes v. Trinity Indus., Inc.*, 883 F.2d 339, 344 (5th Cir. 1989). It is undisputed that funds are being held in a qualified settlement fund escrow account, and such funds cannot be disbursed from that account without court order. Even if the district court does disburse all such funds before a final judgment, Appellant offers no evidence that any funds, if paid, would be unrecoverable from the payees.

With respect to the two 2006 orders disbursing funds, Appellant has wholly failed to explain how these orders come within the collateral order doctrine. Furthermore, these 2006 orders authorize the same types of disbursements as many of the 2003 orders that this Court previously found unappealable prior to a final judgment.

Thus, none of the interlocutory orders Appellant seeks to appeal fall within the collateral order doctrine. Accordingly, these orders are unappealable at this time.

This is the *second* time Appellant has improperly attempted to appeal interlocutory orders. Counsel for Appellant is cautioned against filing further interlocutory appeals regarding the disgorgement of Appellant's attorney's fees and warned that such further filing may result in sanctions. This Court will consider Appellant's contentions on appeal from a *final* judgment–but not before then.

DISMISSED for want of jurisdiction; SANCTIONS WARNING ISSUED.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed February 27, 2006]

PLEASANTVILLE CIVIC LEAGUE, *et al.*

Plaintiffs,

versus

LOGISTICS PARTNERS, INC., D/B/A HOUSTON DISTRIBUTION, INC., *et al.*,

Defendants,

versus

ENICHEM ELASTOMERI, S.R.L.,

Third-Party Defendant.

ORDER

The Escrow Agent (JP Morgan Chase Bank of Texas, N.A.) shall disburse settlement proceeds from the Pleasantville Minors' Qualified Settlement Fund to

the following minor plaintiffs: $8,131.74 to Marquishea Young; $8,025.83 to Chloe Willis; $1,761.56 to Ashley Broussard: $1,761.56 to JaMarcus Jefferson; $3,523.12 to Ashley Roberson; $3,012.83 to Brandy Bradshaw; and $540.53 to Jeremy Caballero.

Signed February 27, 2006.

/s/
Lynn N. Hughes
United States District Judge

APPENDIX C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed February 24, 2006]

PLEASANTVILLE CIVIC LEAGUE, *et al.*	)
	)
Plaintiffs,	)
	)
versus	)
	)
LOGISTICS PARTNERS, INC., *et al.*,	)
	)
Defendants.	)
	)

ORDER

Counsel's motion to sever is denied (1080).

The court did not order him to disgorge attorney's fees. He had a contract for services with minors that required court approval. After several hearings, the court concluded the Boze had not earned anything by his non-existent work for the minors – work that had to be done at separate expense by a guardian ad-litem.

Signed February 24, 2006, at Houston, Texas.

/s/

Lynn N. Hughes
United States District Judge

APPENDIX D

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

C.A. No. H-96-1666

[Filed February 23, 2006]

PLEASANTVILLE CIVIC LEAGUE, *et al.*	)
	)
PLAINTIFFS,	)
	)
VS.	)
	)
LOGISTICS PARTNERS, INC., *et al.*,	)
	)
DEFENDANTS.	)
	)

ORDER GRANTING THE RELEASE OF FUNDS FROM THE REGISTRY OF THE COURT

The Adams Plaintiffs' Attorneys Motion to Withdraw Funds from the Registry of the Court is **GRANTED** without prejudice to the Court's Orders of January 28, 2003 and February 5, 2003 and any subsequent Orders entered by the Court related thereto.

The Federal Clerk is ordered to deliver a check in the amount of 50% of the "principal and all accrued interest" being held in the registry of the Court under this cause number to Stephanie E. Shapiro and Elaine Watson, previously of Shapiro & Watson, L.L.P.

The Federal Clerk is ordered to deliver a check in the amount of 50% of "the principal and all accrued interest" being held in the registry of the court under this Cause number to Newton B. Schwartz, Sr.

The Clerk of the Court shall no longer retain any of the funds on deposit in the Registry of the Court.

Signed this ___ day of 02-23, 2006

/s/
Judge Lynn N. Hughes
United States District Judge

[stamp of Financial Deputy, Office of the Court, U.S. District Court Southern District of Texas 2-16-06]

APPENDIX E

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 03-20333

[Filed February 10, 2004]

PLEASANTVILLE CIVIC LEAGUE OF HOUSTON, TEXAS; ET AL,
Plaintiffs,

BRANDECE J. ABBOTT; BRENDAN E. ADAMS; JERMY LAVON ADAMS; KEVIN CRAIG ADAMS, JR.; TASHUANA NICOLE ADAMS; ET AL,
Plaintiffs-Appellants,

versus

GUARDIAN AD LITEM, also known as Kim Ballew,
Plaintiff-Appellee,

versus

LOGISTICS PARTNERS, INC., ET AL,
Defendants,

Consolidated with
No. 03-20334

PLEASANTVILLE CIVIC LEAGUE
OF HOUSTON, TEXAS,
Etc.; ET AL,

versus

LOGISTICS PARTNERS, INC., ET AL,
Defendants,

U. LAWRENCE BOZE; GARY
WILLIAMS PARENTI FINNEY LEWIS
McMANUS WATSON & SPERANDO,
Appellants.

Appeals from the United States District Court
For the Southern District of Texas
(H-97-CV-2894)

Before HIGGINBOTHAM, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

We must dismiss for want of appellate jurisdiction. The orders for which review is sought are interlocutory and unappealable rulings. Unfortunately, this effort to

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

appeal apparently has prevented the district court from acting, a delay that only adds difficulty to a case with more than its share of confounding administrative difficulties.

DISMISSED for want of jurisdiction.

APPENDIX F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed March 6, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*

Plaintiffs,

versus

LOGISTICS PARTNERS, INC., D/B/A HOUSTON DISTRIBUTION, INC., *et al.*,

Defendants,

versus

ENICHEM ELASTOMERI, S.R.L.,

Third-Party Defedant.

ORDER

The Escrow Agent (JP Morgan Chase Bank of Texas, N.A.) shall disburse settlement proceeds from the Pleasantville Minors' Qualified Settlement Fund to

the following minor plaintiffs: $8,807.81 to Ronnetta Blount: $5,483.36 to Tarsha Mitchell; and $1,467.09 to Courtney Shoals.

Signed March 5, 2003.

/s/
Lynn N. Hughes
United States District Judge

APPENDIX G

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed February 6, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*	)
	)
Plaintiffs,	)
	)
versus	)
	)
LOGISTICS PARTNERS, INC., *et al.*,	)
	)
Defendants.	)
	)

Amending Order

On the guardian ad litem's motion:

1. She has through February 14 to submit a proposed order assigned and continuing the settlement fund.

2. Paragraph 3C of the order of January 28, 2003 (docket no. 972), is amended to read:

"The balance of the disgorged attorney's fees will be disbursed among all minor plaintiffs to compensate the non-Pleasantville plaintiffs for the delay."

Signed February 5, 2003, at Houston, Texas

/s/
Lynn N. Hughes
United States District Judge

APPENDIX H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed February 6, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*	)
	)
Plaintiffs,	)
	)
versus	)
	)
LOGISTICS PARTNERS, INC., *et al.*,	)
	)
Defendants.	)
	)

ORDER

Boze's request for reconsideration and rehearing is denied (982).

Signed February 6, 2003, at Houston, Texas.

/s/
Lynn N. Hughes
United States District Judge

APPENDIX I

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed January 31, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*

Plaintiffs,

versus

LOGISTICS PARTNERS, INC., D/B/A HOUSTON DISTRIBUTION, INC., *et al.*,

Defendants,

versus

ENICHEM ELASTOMERI, S.R.L.,

Third-Party Defedant.

ORDER

JPMorgan Chase Bank, Texas, N.A., Escrow Agent, shall disburse $123,110.16 from the Pleasantville Minors' Qualified Settlement Fund directly to "Kim A.

Ballew, Attorney at Law", as payment for services rendered and expenses incurred as guardian ad litem of the minor plaintiffs for the period of September 1, 2002, through January 20, 2003, according to the Court's order of January 28, 2003.

Signed January 30, 2003.

/s/

Lynn N. Hughes
United States District Judge

APPENDIX J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed January 31, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*	)
	)
Plaintiffs,	)
	)
versus	)
	)
LOGISTICS PARTNERS, INC., D/B/A HOUSTON DISTRIBUTION, INC., *et al.*,	)
	)
Defendants,	)
	)
versus	)
	)
ENICHEM ELASTOMERI, S.R.L.,	)
	)
Third-Party Defedant.	)
	)

ORDER

JPMorgan Chase Bank, Texas, N.A., Escrow Agent, shall disburse $45,662.14 from the Pleasantville Minors' Qualified Settlement Fund directly to "Kim A.

Ballew, Attorney at Law", as payment for services rendered and expenses incurred as guardian ad litem of the minor plaintiffs on behalf of defendants EniChem and ANICO, ANREM and LDI, for the period of September 1, 2002, through January 20, 2003, according to the Court's ruling January 28, 2003.

Signed January 30, 2003.

/s/

Lynn N. Hughes
United Stats District Judge

APPENDIX K

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed January 30, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*

Plaintiffs,

versus

LOGISTICS PARTNERS, INC., D/B/A HOUSTON DISTRIBUTION, INC., *et al.*,

Defendants,

versus

ENICHEM ELASTOMERI, S.R.L.,

Third-Party Defedant.

ORDER

The Escrow Agent (Chase Bank of Texas, N.A.) shall disburse attorneys' fees from the Pleasantville Minors' Qualified Settlement Fund to the following

attorneys representing minor plaintiffs of the *Adams et al.*, plaintiffs group, the *Toombs, et al.*, plaintiffs group, and the *Chacheré et al.*, plaintiffs group, respectfully: $74.29 to Elaine Watson; $2,192.33 to Danny Sheena; and $7,289.22 to Climmons & Associates.

Signed January 29, 2003.

/s/
Lynn N. Hughes
United States District Judge

APPENDIX L

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed January 29, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*

Plaintiffs,

versus

LOGISTICS PARTNERS, INC., D/B/A HOUSTON DISTRIBUTION, INC., *et al.*,

Defendants,

versus

ENICHEM ELASTOMERI, S.R.L.,

Third-Party Defedant.

Partial Final Judgment

On EniChem's motion (693):

Michael Yarbrough and Benita Yarbrough take nothing from EniChem Elastomers Americas, Inc.; EniChem America, Inc.; and EniChem Elastomeri, s.r.l.

Signed January 28, 2003, at Houston, Texas.

/s/
Lynn N. Hughes
United States District Judge

APPENDIX M

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Civil Action H-96-1666

[Filed January 29, 2003]

PLEASANTVILLE CIVIC LEAGUE, *et al.*	)
	)
Plaintiffs,	)
	)
versus	)
	)
LOGISTICS PARTNERS, INC., *et al.*,	)
	)
Defendants.	)
	)

ORDER

1. The defendants may discard the accumulated materials that would have been used as evidence in this case.

2. By January 30, Elf will stipulate that it waives limitations defenses to American National's claims. American National will dismiss those claims without prejudice.

3. By February 5, the guardian ad litem will submit a proposed order assigning and continuing the settlement fund. She will also submit an amended recommended allocation reflecting these determinations:

   A. Atorney's fees.

1. Adams plaintiffs	$308,615.71
2. Chachere plaintiffs	$7,304.22
3. Pleasantville plaintiffs	$7,106.00
4. Toombs plaintiffs	$279,887.06

   B. The guardian's aggregate bill will be paid from the remaining Pleasantville settlement proceeds. Parties who have already paid their fees will be reimbursed.

   C. The balance of the pleasantville settlement proceeds will be reallocated among the settling Pleasantville minor plaintiffs.

Signed January 28, 2003, at Houston, Texas.

/s/
Lynn N. Hughes
United States District Judge

APPENDIX N

Civil Courtroom Minutes

[Filed January 29, 2003]

Judge	Lynn N. Hughes
Case Manager	Dawna B. Kelly
Law Clerk	⊠ Olson
Date	1-28-03
Time	10:05 a.m. – 12:05 p.m.
Civil Action	H 96 1666
Style	Pleasantville Civil League, et al. *versus* Logistics Partners, et al.

Docket Entry

(LNH) ⊠ Hearing; ___ day (mc.) □ Bench (bntrl) □ Jury Trial (jytrl)

(Rptr. June Simon)

see attached for □ Ptf. #____ □ Deft. #___

* * *

☒ Argument heard on ☒ these topics:
ad litem report, attorney's fees, ad litem fees, trust fund for minors

* * *

☒ Order to be entered.

* * *

☒ Rulings orally rendered on: Boze's oral motion to continue the hearing and for an evidentiary hearing is denied.

CA 96-166

U. Lawrence Bozé; Linnes Finney, Jr. — Pleasantville plaintiffs
Elaine Watson- Adams plaintiffs
Danny Sheena - Toombs plaintiffs
Gwendolyn Climmons - Chachere plaintiffs

Fred Hagans - attorneys Bozé and Finney

Kim Ballew - guardian ad litem

Memphis Allen - pro se claimant

Joe Fulcher - defendant American National Insurance
Walt Conrad, Mike Brem - defendants Arco, Elf, Olin, PMC, and Reichhold
Jim Tancula, Jessica McSleer - Enichem defendants
Ryan Chadwick - defendant Glusa
Brad Chambers - defendant Sonitrol

APPENDIX O

CONSTITUTIONAL AMENDMENT

Fifth Amendment To The United States Constitution (1789)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX P

STATUTE

28 U.S.C. § 1291

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Cout for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.